



CANNON BUILDING
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STATE OF DELAWARE
DEPARTMENT OF STATE

DIVISION OF PROFESSIONAL REGULATION

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PUBLIC MEETING MINUTES:	DELAWARE REAL ESTATE COMMISSION SUBCOMMITTEE TO REVIEW STATUTE REVISIONS
MEETING DATE AND TIME:	Thursday, July 12, 2012 at 10:30 a.m.
PLACE:	861 Silver Lake Boulevard, Dover, Delaware Conference Room A , Second floor of the Cannon Building
MINUTES APPROVED:	October 11, 2012

MEMBERS PRESENT

Michael Harrington
Christopher J. Whitfield
Ricky H. Allamong
Doug Doyle

DIVISION STAFF/ DEPUTY ATTORNEY GENERAL

Eileen Heeney, Deputy Attorney General
Sandra Wagner, Administrative Specialist III
Gayle Melvin, Administrative Specialist III

ALSO PRESENT

Senator Bruce Ennis
Chuck Mullholland
Dianne Mullholland
Frank Szczuka
Denise Tatman

CALL TO ORDER

Mr. Harrington called the meeting to order at 10:37 p.m.

INTRODUCTION AND PURPOSE OF SUBCOMMITTEE

Mr. Harrington had the committee members introduce themselves.

DISCUSSION: RECIPROCITY WITH MARYLAND REGARDING CONTINUING EDUCATION

Mr. Harrington stated that Mr. Staton and he had met with the Maryland Real Estate Commission. Ms. Melvin stated that she talked to the Executive Director, Kathy Connelly at the Maryland Real Estate Commission. Ms. Connelly had sent information about reciprocal agreements with other states regarding licensure and Ms. Connelly advised that the Maryland Real Estate Commission could only have reciprocity with licensure not with continuing education. Ms. Heeney stated that she had not talked to anyone from Maryland and that she was updated by Ms. Melvin on the outcome. Previously the Real Estate Committee went through and discussed what the difference between non-resident and resident was and how licensure was going to take place in Delaware under the changes going into place. Ms. Heeney stated that having reciprocity for licensure with Maryland would require another statute change. The Division doesn't go into reciprocity agreements with state to state. Ms. Heeney had a couple of concerns about going back to the legislature when the Commission just went through changes in the statute and second, carving out something for Maryland alone would create a fairness issue. Mr. Doyle stated that this has nothing to do with reciprocity for licensure with Delaware; it is about having reciprocity with continuing education. Ms. Melvin stated that Ms. Connelly said that by the Maryland statute they couldn't do reciprocity with just continuing education, only with licensure. Mr. Harrington stated the Committee will take to the Commission the approval of reciprocity pertaining to continuing education with Maryland. Maryland has 21 hours of continuing education as does Delaware now. Since Maryland has a waiver provision maybe the approach should be through a waiver provision when it comes to continuing education. The Committee will have to pull Maryland's statute where the waiver provision is and see what this entails and see if maybe Delaware could add a waiver provision. Mr. Allamong made a motion, seconded by Mr. Doyle, to table this discussion until the next Committee meeting.

REVIEW OF SELLER DISCLOSURE FORMS

Mr. Chuck Mulholland addressed the Committee. Mr. Mulholland is representing New Castle County Civic League and Southern New Castle County Alliance. Mr. Mulholland said that he and Mr. Frank Szczuka have attended numerous meetings with home buyers who were new to the State of Delaware and were not given full disclosure of what they were getting into, particularly when buying in Odessa National. Mr. Mulholland referred to the January 1, 2011 seller's disclosure form page 2, line 13, asking whether the property is subject to any agreement concerning affordable housing or workforce housing. Mr. Allamong asked Mr. Mulholland if he was referring to the new home buyer new construction disclosure form. Mr. Mulholland stated that he has the original workforce housing document which he will supply to the Committee. He also has Ordinance 07150 from New Castle County that was adopted on February 26, 2008 regulating workforce housing in New Castle County. Mr. Allamong asked if Mr. Mulholland was just talking about one county and asked if Mr. Mulholland was aware of any other counties using this ordinance. Mr. Mulholland said that he was not aware of this document being used in any other county. Mr. Szczuka stated that there is affordable housing and workforce housing in Sussex County, but that he and Mr. Mulholland were only present to discuss New Castle County because of the ordinance. Mr. Allamong wanted to know if this was a statewide program and Mr. Szczuka stated that it was.

Mr. Mulholland referred to the term "subject to any agreement" in the seller's disclosure form, line 13, and submitted a copy of Ordinance 07150 to the Committee members and directed them to section 341. Mr. Mulholland read that section to the Committee. There are five sections of this ordinance which specify there are agreements and plans that pertain to every dwelling. Mr. Mulholland had documentation of a house sold that said it was a verified workforce housing unit but it wasn't a workforce house unit. The gentleman was not told he was buying into a

workforce housing development. Mr. Mulholland gave the Committee members a copy of Goldsboro Farm master workforce housing agreement. People are buying into developments and are not being told that they are buying into a workforce housing project.

Mr. Mulholland stated that CNBC released a national poll showing that Delaware is ranked 49 for quality of life. Mr. Mulholland stated the he, Mr. Frank Szczuka and Senator Bruce Ennis have been battling this for 3 years now. Mr. Mulholland stated that when a member of the public walks into a sales office that person is not told that the development may have extra density and that there may be affordable housing in the development and those houses may be priced less. Mr. Mulholland has a letter dated January 24, 2012 from Ms. Warren stating that in Delaware home buyers are not told that. Mr. Mulholland stated that he has tried to communicate this information to Mr. Taylor, but hasn't received a reply yet. This hasn't affected Mr. Mulholland personally, but it does affect the people that come to him. Mr. Mulholland stated that he doesn't understand why a buyer can't find this information out when making the biggest investment a person can make.

Mr. Allamong asked whether Mr. Mulholland thought that the new construction seller's disclosure form should be reworded. Mr. Mulholland stated "No," that it should be enforced verbatim. The new construction seller's disclosure form references the property, not the community, and that seems to be where the problem is. Mr. Allamong asked if there was database housing information about affordable housing in different communities, and Mr. Mulholland said when Bayberry was constructed the county kept detailed records. Goldsboro doesn't have any information in any database. The database is kept between the County Community Services Department and the builder, not the State. Mr. Whitfield asked why the County isn't requiring the builder to notify people of the affordable housing. Mr. Mulholland stated he wasn't sure why. Mr. Whitfield stated that the Commission was being asked to do something that the State Legislature was not requiring, in terms of requiring builders to notify the public of affordable housing. Mr. Whitfield further stated that Mr. Mulholland are asking the Commission to modify the form, and that seemed like a roundabout approach. Mr. Mulholland stated that he doesn't want the form changed, just to be enforced.

Mr. Allamong stated that the Commission has only been charged with developing, the form, not enforcing it. The Commission only has the authority to regulate their licensees. Mr. Mulholland asked who is in charge of enforcing the form, and Mr. Whitfield said he doesn't know and that maybe this should be something that should go before the Legislature. Mr. Mulholland said that is where the problem is, nobody knows who should be enforcing the disclosure form. The last time Mr. Mulholland brought this subject up in front of sponsors he was accused of being racist.

Mr. Szczuka stated that he went to the Council of Real Estate Appraisers meeting after attending a Real Estate Commission meeting and he was told that if you are not told up front about the disclosure, there are problems. Mr. Szczuka said once the house is sold what goes on the books is what the house was sold for; it doesn't say that the house was part of a workforce housing project. The Committee asked whether there was ever a Bill written for this particular issue and Mr. Mulholland said, yes, Bill 131 in the 146th session, but it never got out of Committee.

Ms. Heeney asked if the disclosure form would be filled out by the builder, and if so, the Commission wouldn't have any jurisdiction over the builders. Mr. Mulholland stated that this discussion could go around and around but the question is: "Do you want to do you civic duty to buyers" and right now it seems the answer is "no." Mr. Allamong stated that the way the Commission wrote the disclosure form it was for the property being sold, not for the community.

Mr. Allamong further stated that, as the Committee was hearing the information presented, the understanding was that this was just for new developments, but Mr. Allamong said this should affect re-sales of property as well. Mr. Szczuka said it is on the seller's disclosure form now. Mr. Mulholland said if the Commission wants to maintain any type of reputation then this problem needs to be cleaned up.

Ms. Heeney said that the Real Estate Commission has no jurisdiction to enforce the seller's disclosure form. Mr. Allamong said the reason this form was updated was because of legislation having to do with Title 6. Mr. Whitfield said that it is a matter of adding the word "community" to both the seller's disclosure forms. This would have to be taken to the Commission to get their input.

Mr. Harrington said it seems to him that after discussion and getting the Attorney General's view on this that the commission's role is to protect the public and the form being discussed is filled out by the seller. It is not a form that is given to every buyer. Mr. Harrington said what he is hearing is that the discussion is coming down to notifying every person buying a house whether known or not about certain disclosures. Mr. Harrington stated that from the Committee's stand point, adding the word "community" to the seller's disclosure form would only pertain to the house that is being sold. Mr. Whitfield said if there is a deed restriction then it would have to be disclosed, but just having a workforce house, he was not sure about that.

Mr. Whitfield asked Senator Ennis why he thought the Bill didn't get passed. Senator Ennis said there were several bills: House Bill 131 and more recently Senate Bill 191. They had a good outcome with the hearing before the Committee. With the bills, they thought it would be necessary that everyone would be noticed publically, and that a notice would be visible to all buying in those developments, and in no way would it be discriminatory against anyone. They went against some strong opposition from developers and builders.

Mr. Szczuka said that the Bills might look to be a little discriminatory; however, in his opinion, they were not. There was no intent to find out how much money people made. Mr. Szczuka stated he felt that the public should know that they would be living in a workforce housing community.

Mr. Harrington said the only way to get this through would be through legislation. Mr. Harrington stated that the Commission would be just a band aid for what the speakers really wanted done. Mr. Harrington was very sympathetic but the Commission was not the route to go to get what they want accomplished. Mr. Mulholland stated that he and Mr. Szczuka have put their own time and money into this. The Committee commended these efforts but indicated that the Commission was not the appropriate route for accomplishing their goals. Mr. Mulholland said that, according to Ms. Warren, you are told about workforce housing, only if you are buying a workforce housing home. Mr. Doyle made a motion, seconded by Mr. Whitfield, to take the discussion of adding the word "community" or "development" to the seller's disclosure form to the full Commission. By unanimous vote, the motion carried.

Mr. Szczuka said he has heard words from Mr. White that he found highly inflammatory and discriminatory and would like to know what was meant. The Committee expressed to Mr. Szczuka that he would have to ask Mr. White what was meant by his comments because Mr. White was not present.

REVIEW OF LETTER FROM SUSSEX COUNTY ASSN OF REALTORS

This letter was presented to the Committee about changes being made to the new modules. There was some discussion about the Real Estate Education Committee receiving CE credit for attending their meetings. Ms. Heeney stated that when new rules go into effect there are always changes that need to be made and the Committee could keep the suggested changes and once other suggestions are made or changes need to be made, the Committee can hold hearings to make the changes. This will be discussed at another time.

REVIEW OF EMAIL FROM ANDREW RATNER

Mr. Ratner's email was about the escrow account and any manager could be the one to take money from the escrow account. Mr. Harrington stated the current statute purposes to protect the public and if it is necessary to deduct management fees then the landlord tenant code should be followed. Mr. Doyle asked if this is just for residential and 6.1 states that you can pay yourself out of the escrow account on a short term rental. If not doing short term rental's another account should be used. This discussion will be put on the commission's agenda.

OTHER BUSINESS BEFORE THE SUBCOMMITTEE (for discussion only)

There was no other business before the Subcommittee.

PUBLIC COMMENT

There were public comments under the Seller's Disclosure Form discussion.

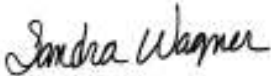
NEXT SCHEDULED MEETING

The next meeting was not scheduled at this time. Committee meetings will be scheduled as needed after commission meetings.

ADJOURNMENT

Mr. Whitefield made a motion, seconded by Mr. Doyle to adjourn the meeting. The motion passed unanimously. The meeting adjourned at 12:22 p.m.

Respectfully submitted,



Sandra Wagner
Administrative Specialist III